

STEPHEN M. TILLERY (*pro hac vice*)
stillery@koreintillery.com

GARRETT R. BROSHUIS (*pro hac vice*)
gbroshuis@koreintillery.com

GIUSEPPE S. GIARDINA (*pro hac vice*)
ggiardina@koreintillery.com

KOREIN TILLERY, LLC
505 North 7th Street, Suite 3600
St. Louis, MO 63101
Telephone: (314) 241-4844
Facsimile: (314) 241-3525

GEORGE A. ZELCS (*pro hac vice*)
gzels@koreintillery.com

KOREIN TILLERY, LLC
205 North Michigan, Suite 1950
Chicago, IL 60601
Telephone: (312) 641-9750

BRUCE L. SIMON (Bar No. 96241)
bsimon@pswlaw.com
BENJAMIN E. SHIFTAN (Bar No. 265767)
bshiftan@pswlaw.com
PEARSON, SIMON & WARSHAW, LLP
44 Montgomery Street, Suite 2450
San Francisco, CA 94104
Telephone: (415) 433-9000
Facsimile: (415) 433-9008

DANIEL L. WARSHAW (Bar No. 185365)
dwarshaw@pswlaw.com
BOBBY POUYA (Bar No. 245527)
bpouya@pswlaw.com
PEARSON, SIMON & WARSHAW, LLP
15165 Ventura Boulevard, Suite 400
Sherman Oaks, California 91403
Telephone: (818) 788-8300
Facsimile: (818) 788-810

Plaintiffs' Interim Co-Lead Class Counsel

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

AARON SENNE, et al., Individually and on
Behalf of All Those Similarly Situated,

Plaintiffs,

vs.

OFFICE OF THE COMMISSIONER OF
BASEBALL, an unincorporated association
doing business as MAJOR LEAGUE
BASEBALL, et al.,

Defendants.

CASE NO. 3:14-cv-00608-JCS (consolidated
with 3:14-cv-03289-JCS)

CLASS ACTION

DECLARATION OF AARON SENNE REGARDING JURISDICTION AND VENUE

Hearing date: Feb. 13, 2015, 2:00 p.m.
Courtroom: G, 15th Floor
Judge: Honorable Joseph C. Spero

1 Aaron Senne declares:

2 1. I am personally familiar with the facts set forth in this declaration. If called as a
3 witness I could and would competently testify to the matters stated herein.

4 2. I was previously employed as a minor league baseball player by the Miami Marlins
5 (formerly the Florida Marlins) from June of 2010 to June of 2013.

6 3. Scouts began recruiting me in high school, and the recruitment continued while I was
7 in college at the University of Missouri. They often came to games and practices, talked to me and my
8 coaches, and had me fill out numerous forms and questionnaires.

9 4. The Marlins expected me and my teammates to perform substantial winter training
10 work after the seasons ended and provided us with winter work packets for the winter. We were not
11 paid for this winter work. We also provided the teams with our off-season addresses, which needed to
12 be correct so the team could communicate with us or, if needed, perform a drug test on us.

13 5. Attached as Exhibit A to this declaration is a true and accurate copy of Major League
14 Baseball's Minor League Drug Prevention and Treatment Program. It is dated 2011, and the Marlins
15 provided it to me in 2011 while I was employed by them. On page 6, at paragraph 5.B, it details the
16 policy on off-season testing and the need for accurate off-season addresses.

17 I declare under penalty of perjury under the laws of the United States of America that the
18 foregoing is true and correct.

19 Executed on December 12, 2014, in Columbia, Missouri.

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23 Aaron Senne
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Exhibit A



**Major League Baseball's
Minor League Drug
Prevention and Treatment Program**

MAJOR LEAGUE BASEBALL'S MINOR LEAGUE DRUG PREVENTION AND TREATMENT PROGRAM

Major League Baseball's Minor League Drug Prevention and Treatment Program ("Program") was established to prevent and end the use of Prohibited Substances (defined in Section 2 below) by all non 40-man roster Minor League players ("Players"). The Office of the Commissioner has concluded that the use of Prohibited Substances is potentially hazardous to a Player's health and may give a Player an unfair competitive advantage.

The Program covers all Players who are under a Minor League contract during the 2011 season and 2011-2012 off-season. If a Player was under contract during the 2011 season and has not voluntarily retired, he is also subject to the drug testing provisions set forth in the Program.

1. MINOR LEAGUE HEALTH POLICY ADVISORY COMMITTEE ("MLHPAC")

A. MLHPAC Members

MLHPAC is responsible for administering and overseeing the Program. MLHPAC is comprised of the Medical Representative to MLHPAC ("Medical Representative") and two other members (with at least one member being a duly licensed attorney).

B. Appointment and Removal of MLHPAC Members

The members of MLHPAC are appointed and removed by the Commissioner. The current members of MLHPAC are Robert D. Manfred, Jr., Jonathan D. Coyles and Laurence M. Westreich, M.D, who is the Medical Representative.

C. Duties and Responsibilities of MLHPAC

MLHPAC shall have the following duties and responsibilities:

1. Establish advisory groups as it deems necessary to allow for effective administration of the Program;
2. Prepare and undertake educational presentations supporting the objectives of the Program;
3. Administer the Program's testing requirements;
4. Establish uniform guidelines and requirements related to the Program for the Clubs' Employee Assistance Programs and monitor the performance of all such Employee Assistance Programs, including the qualifications of each Club's Employee Assistance Professional ("EAP");
5. Determine a Player's placement on either the Clinical or Administrative Track;

6. Create, or participate in creating, individualized treatment programs for Players on the Clinical Track ("Treatment Programs");
7. Monitor and supervise Players' Treatment Program progress;
8. Establish, monitor, and maintain the Test Scheduling and Notification Procedures, Collection Procedures and Testing Protocols set forth in Addendum A hereto;
9. Periodically review the operation of the Program and make recommendations to the Commissioner for appropriate amendments; and
10. Take any and all other reasonable actions necessary to ensure the proper and efficient administration of the Program.

2. DRUGS OF ABUSE AND PERFORMANCE ENHANCING SUBSTANCES

Players are prohibited from using, possessing, distributing or selling (or assisting in the distribution or sale of) any Drug of Abuse and/or Performance Enhancing Substance (collectively referred to as "Prohibited Substances").

A. Drugs of Abuse

Any and all drugs or substances included in Schedules I and II of the Code of Federal Regulations' Schedule of Controlled Substances shall be considered a Drug of Abuse covered by the Program (excluding those Schedule I and II substances included as Performance Enhancing Substances below). Moreover, any drug or substance that is not included in either Schedule I or II shall be considered a Drug of Abuse if it: (i) is similar in nature to a substance in Schedule I or II; (ii) cannot be lawfully taken without a valid prescription and has the potential for abuse; or (iii) cannot be lawfully obtained or used in the United States. The following is a non-exhaustive list of Drugs of Abuse covered by the Program:

1. Natural Cannabinoids (*e.g.*, THC and Marijuana)
2. Synthetic THC and Cannabimimetics (*e.g.*, K2 and Spice)
3. Cocaine
4. LSD
5. Opiates (*e.g.*, Oxycodone, Heroin, Codeine, and Morphine)
6. MDMA (Ecstasy)
7. GHB
8. Phencyclidine (PCP)

B. Performance Enhancing Substances

The following substances shall be considered Performance Enhancing Substances under the Program. Notwithstanding the foregoing, MLHPAC reserves the right to add a Performance Enhancing Substance at any time if it determines that the ingestion of such substance would result in a Player having an unfair competitive advantage.

Some Performance Enhancing Substances are available for over-the-counter purchase or with a prescription in the United States or other countries. Unless a Player has successfully obtained a Therapeutic Use Exemption in accordance with the provisions of Section 13 of the Program, a Player will not be excused from a positive test result because the Performance Enhancing Substance was obtained over-the-counter or through a valid prescription.

1. Anabolic Androgenic Steroids ("AAS")

Any and all AAS included in Schedule III of the Code of Federal Regulations' Schedules of Controlled Substances ("Schedule III") shall be considered a Performance Enhancing Substance covered by the Program. AAS that are not included in Schedule III but that may not be lawfully obtained or used in the United States (including "designer steroids") shall also be considered Performance Enhancing Substances covered by the Program. The following is a non-exhaustive list of AAS that are covered by the Program:

Androstadienedione, Androstenediol, Androstenedione, Androstenediol, Androstenedione, Androsterone, Bolandiol, Bolasterone, Boldenone, Boldione, Calusterone, Clostebol, Danazol, Dehydrochlormethyltestosterone (Turinabol), Dehydroepiandrosterone (DHEA), Desoxymethyltestosterone (DMT, Madol), Dihydrotestosterone, Drostanolone, Epiandrosterone, Epi-dihydrotestosterone, Epitestosterone, Ethylestrenol, Fluoxymesterone, Formebolone, Furazabol, Gestrinone, 4-Hydroxytestosterone, Mestanolone, Mesterolone, Methandienone, Methandriol, Methasterone (Superdrol), Methenolone, Methylidienolone, Methylnortestosterone, Methyltestosterone, Methyltrienolone (Metribolone), Mibolerone, Nandrolone, Norandrostenediol, Norandrostenedione, Norandrosterone, Norbolethone (Genabol), Norclostebol, Norethandrolone, Noretiocholanolone, Oxabolone, Oxandrolone, Oxymesterone, Oxymetholone, Prasterone (DHEA), Prostanazolol, Quinbolone, Stanozolol, Stenbolone, Testosterone, Tetrahydrogestrinone, Trenbolone, and any other substances with a similar chemical structure or biologic effect(s).

2. Stimulants

All Stimulants (including both their D and L isomers where relevant) are prohibited. The following is a non-exhaustive list of Stimulants that are covered by the Program:

Adrafinil, Amfepramone, Amiphenazole, Amphetamine, Amphetaminil, Armodafinil, Benfluorex, Benzphetamine, Benzylpiperazine, Bromantan, Carphedon, Cathine (Norpseudoephedrine), Chlorphentermine, Clobenzorex, Clortermine, Cropropamide, Crotetamide, Dimethylamphetamine, Ephedrine, Etamivan, Etilamphetamine, Etilefrine, Famprofazone, Fenbutrazate, Fencamine, Fencamfamin, Fenetylline, Fenfluramine, Fenproporex, Furfenorex, Heptaminol, Isometheptene, Levmetamphetamine, Meclofenoxate, Mefenorex, Mephentermine, Mesocarb, Methamphetamine, Methylamphetamine, Methylenedioxyamphetamine, Methylenedioxymethamphetamine,

Methylephedrine, Methylhexaneamine (Dimethylamylamine, Dimethylpentylamine, DMAA), Methylphenidate, Modafinil, Nikethamide, Norfenefrine, Norfenfluramine, Octopamine, Oxilofrine, Parahydroxyamphetamine, Pemoline, Pentetrazol, Phendimetrazine, Phenmetrazine, Phenpromethamine, Phentermine, Prenylamine, Prolintane, Propylhexedrine, Selegiline, Sibutramine, Strychnine, Tuaminoheptane, and any other substances with a similar chemical structure or biologic effect(s).

3. Miscellaneous Anabolic Agents

Including, but not limited to, Clenbuterol, Selective Androgen Receptor Modulators (SARMs), Tibolone, Zeranor, and Zilpaterol.

4. Peptide Hormones, Growth Factors and Related Substances

The following substances and their releasing factors are prohibited:

1. Human Growth Hormone (HGH)
2. Insulin-Like Growth Factors (*e.g.*, IGF-1)
3. Mechano Growth Factors (MGFs)
4. Gonadotrophins, including but not limited to, Human Chorionic Gonadotrophin (hCG), and Luteinizing Hormone (LH)
5. Erythropoiesis-Stimulating Agents (*e.g.*, Erythropoietin (EPO), Darbepoetin (dEPO), Hematide and Methoxy polyethylene glycol-epoetin beta (CERA))
6. Corticotrophins
7. Other substances with similar chemical structure or similar biological effect(s).

5. Hormone Antagonists and Modulators

The following classes of substances are prohibited:

1. Aromatase Inhibitors including, but not limited to, Anastrozole, Androstatrienedione (ATD), Androstenedione (6-OXO), Aminoglutethimide, Dianastrozole, Exemestane, Formestane, Letrozole, and Testolactone.
2. Selective Estrogen Receptor Modulators (SERMs), including, but not limited to, Raloxifene, Tamoxifen, and Toremifene.
3. Other Anti-Estrogenic Substances including, but not limited to, Clomiphene, Cyclofenil, and Fulvestrant.

4. **Agents modifying myostatin function(s)** including, but not limited to, **Myostatin Inhibitors.**

6. Diuretics and other Masking Agents

Masking agents are defined as products that substitute, dilute, mask or adulterate a specimen used in drug testing or impair the excretion of Prohibited Substances to conceal their presence in a specimen.

1. **Masking agents** include: **Diuretics, Probenecid, Plasma Expanders,** and other substances with similar biological effect(s).
2. **Diuretics** include: **Acetazolamide, Amiloride, Bumetanide, Canrenone, Chlorthalidone, Desmopressin, Etacrynic Acid, Furosemide, Indapamide, Metolazone, Spironolactone, Thiazides (e.g., Bendroflumethiazide, Chlorothiazide, and Hydrochlorothiazide), Triamterene,** and other substances with similar chemical structure or similar biological effect(s).

7. Gene Doping

The transfer of cells or genetic elements (e.g., DNA or RNA) or the use of pharmacological or biological agents that alter gene expression with the potential to enhance athletic performance is prohibited.

3. PROHIBITION OF SYRINGES

The use and possession of syringes by Players in any Club facility, Club-provided housing (including academies and hotel rooms), or while traveling with the Club is prohibited under the Program. Any Player who uses or possesses a syringe without the express approval of a Club physician will be subject to discipline under Section 11.F of the Program.

4. NUTRITIONAL AND DIETARY SUPPLEMENTS

Because the nutritional and dietary supplement industry is not subject to stringent government regulation, over-the-counter nutritional and dietary supplements may be mislabeled, or may contain or be contaminated with a Performance Enhancing Substance which is not listed as an ingredient on the label. As a result, a Player may test positive for a Performance Enhancing Substance from taking a supplement. Such test results will be deemed a positive test result pursuant to Section 5.D below even if the Player claims he was not aware that the product contained a Performance Enhancing Substance, was mislabeled or was contaminated. Players are solely responsible for the substances they put in their bodies under the Program.

The only supplements that Players can use without the risk of a positive test result are products that have been certified under the NSF Certified for Sport Program. The NSF Certified for Sport program provides a guarantee that a product does not contain any Performance Enhancing Substances. Players act at their own risk if they ingest any supplements that are not

NSF Certified for Sport. An up-to-date list of NSF Certified for Sport products is attached as Addendum F hereto, and is available at www.NSFsport.com.

5. RANDOM TESTING

A. In-Season Testing

In addition to the testing set forth in Sections 6 and 7 below, all Players shall be subject to unlimited, random, unannounced tests for the use of Prohibited Substances before and after all games. If a Player tests positive for a Prohibited Substance, he shall be subject to the discipline set forth in Section 11 and will be subject to additional follow-up testing under the Program.

B. Off-Season Testing

All Players shall be subject to random, unannounced tests during the off-season. Players are responsible for providing the National Center for Drug Free Sport ("Drug Free Sport") with: (i) accurate off-season contact and location information (e.g., phone numbers and addresses); (ii) the dates they will not be available for testing during the off-season; and (iii) the reasons for their unavailability.

Players must contact J.D. Matheus at Drug Free Sport by phone at (877) 677-4287 ext. 114 or by email at jmatheus@drugfreesport.com if their off-season contact or location information changes for any reason or for any time period (e.g., Winter Ball, vacation, injury rehab, etc.). If Drug Free Sport attempts to test a Player during the off-season and is unable to contact him using the information that he provided, he will be charged with a positive drug test for failure to take a test, which will subject him to the discipline set forth in Section 11. If a Player is at a different location from the one he provided to Drug Free Sport, the Player will be required to immediately travel to the collector's location. If a Player fails or refuses to comply with this requirement, he will be charged with a positive drug test for failure to take a test, which will subject him to the discipline set forth in Section 11.

C. Collection Procedures

All Program testing shall be conducted in compliance with the Collection Procedures and Testing Protocols set forth in Addendum A hereto.

D. Positive Test Results

Any test conducted under the Program will be considered "positive" under the following circumstances:

1. If any Prohibited Substance is detected in the specimen provided by a Player (certain Prohibited Substances are subject to the test levels set forth in the Testing Protocols section of Addendum A);

2. A Player fails or refuses to take a test pursuant to Sections 5, 6 or 7 or otherwise engages in activity that prevents the collection of a specimen under the Program;
3. A Player attempts to substitute, dilute, mask or alter a specimen, attempts to impair the excretion of a Prohibited Substance in a specimen, or attempts to tamper with a test in any way (including, but not limited to, catheterization, specimen substitution and/or adulteration);
4. If Drug Free Sport attempts to test a Player during the off-season and is unable to contact him using the information that he provided, or if the Player is at a different location from the one he provided to Drug Free Sport and he fails or refuses to immediately travel to the collector's location.

The determination of whether a test is "positive" under Section 5.D.2, 5.D.3 or 5.D.4 shall be made by MLHPAC.

E. Notification

1. Drugs of Abuse

For a first positive test result for a Drug of Abuse, MLHPAC will immediately notify the Club's General Manager, Farm Director and EAP of a Player's positive test result, the date of the collection and the Drug of Abuse for which the Player tested positive. The EAP will be responsible for informing the Player of the positive test result. For Players participating in the Dominican and Venezuelan Summer Leagues, the Dominican or Venezuelan-based EAP retained by the Office of the Commissioner will be responsible for informing the Player of the positive test result.

For any subsequent positive test results for a Drug of Abuse, MLHPAC will notify the Club's General Manager, Farm Director and EAP of the Player's positive test result, the date of the collection, the Drug of Abuse for which the Player tested positive, and the discipline that is being imposed. The Club's General Manager or Farm Director will be responsible for informing the Player of the positive test result and the discipline that is being imposed. For Players participating in the Dominican and Venezuelan Summer Leagues, the Dominican or Venezuelan-based EAP retained by the Office of the Commissioner will be responsible for informing the Player of the positive test result and the discipline that is being imposed.

2. Performance Enhancing Substances and Other Violations

MLHPAC will immediately notify the Club's General Manager and Farm Director of the nature of the Player's positive test result or violation, the date of the collection or violation, the Performance Enhancing Substance involved, and the discipline that is being imposed. The Club's General Manager or the Farm Director may, at his discretion, inform the EAP of the positive test result or violation. The Club's General Manager or Farm Director will be responsible for informing the Player of the positive

test result or violation, and the discipline imposed. For Players participating in the Dominican and Venezuelan Summer Leagues, the Dominican or Venezuelan-based EAP retained by the Office of the Commissioner will be responsible for informing the Player of the positive test result or violation, and the discipline that is being imposed.

6. REASONABLE CAUSE TESTING

In the event that any MLHPAC member has or receives information that gives him reasonable cause to believe that a Player has engaged in the use, possession, distribution or sale of a Prohibited Substance, such member shall immediately request a meeting (or conference call) to present the information to the other MLHPAC members. Upon hearing the information presented, MLHPAC may either immediately determine that there is reasonable cause to believe that the Player has engaged in the use, possession, distribution or sale of a Prohibited Substance or MLHPAC may request that the Office of the Commissioner's Department of Investigations conduct an investigation to determine additional facts. If MLHPAC determines that reasonable cause exists, the Player will be subject to immediate testing in accordance with the Collection Procedures and Testing Protocols set forth in Addendum A hereto.

If the Player tests positive for a Prohibited Substance in a reasonable cause test, he will be subject to the discipline set forth in Section 11.

7. FOLLOW-UP TESTING

A Player who has tested positive under the Program for a Prohibited Substance shall be subject to mandatory follow-up testing. The number of mandatory follow-up tests shall be determined by MLHPAC.

If a Player tests positive for a Prohibited Substance in any follow-up test, he will be subject to the discipline set forth in Section 11.

8. CLINICAL AND ADMINISTRATIVE TRACKS FOR DRUGS OF ABUSE

A. General

Any Player referred to MLHPAC as a result of involvement with a Drug of Abuse shall be placed on either the Clinical or Administrative Track.

B. Clinical Track

1. A Player may be placed on the Clinical Track if: (i) the Player voluntarily comes forward to either MLHPAC or his Club before being tested under the Program or in a Club-administered test; and (ii) admits to using a Drug of Abuse ("Voluntary Self-Referral"). Voluntary Self-Referral shall include any situation where the Club suggests to the Player that he seek assistance from either MLHPAC or an EAP for using a Drug of Abuse and the Player voluntarily agrees to such assistance. The

Clinical Track is not available to a Player who has used (or is currently using) a Performance Enhancing Substance.

2. While a Player remains on the Clinical Track, any and all information relating to the Player's involvement in the Program, including but not limited to follow-up testing and his Treatment Program (defined in Section 1.C above and Section 9.B below) progress, shall be disclosed only to MLHPAC and/or the EAP who shall keep such information confidential.
3. A Player shall not be subject to discipline while he is on the Clinical Track, except as set forth in Section 8.B.4 below.
4. MLHPAC may remove a Player from the Clinical Track and place him on the Administrative Track under the following circumstances: (i) the Player fails to comply with his Treatment Program; and/or (ii) any of the conditions of Administrative Track placement occur, including testing positive for a Drug of Abuse under the Program. Players placed on the Administrative Track may be subject to discipline. MLHPAC will inform the Club's General Manager, Farm Director and EAP if the Player is moved from the Clinical Track to the Administrative Track.

C. Administrative Track

1. A Player will be placed on the Administrative Track if any one of the following occurs: (i) the Player tests positive for a Drug of Abuse under the Program; (ii) MLHPAC determines that the Player should enter the Clinical Track but the Player refuses Voluntary Self-Referral; (iii) the Club and/or MLHPAC believe that the Player poses a threat to the safety of himself or others and the Player refuses Voluntary Self-Referral; (iv) the Player is convicted or pleads guilty (including a plea of nolo contendere or a similar plea) to the possession, use, distribution or sale of any Drug of Abuse (including a criminal charge of conspiracy or attempt to possess, use, distribute or sell any Drug of Abuse); (v) the Player is involved in the possession, use, distribution or sale of a Drug of Abuse; (vi) the Player does not comply with his Treatment Program; or (vii) the Player fails to cooperate with an investigation conducted by the Office of the Commissioner's Department of Investigations.
2. While a Player remains on the Administrative Track, information relating to the Player's involvement in the Program, including, but not limited to, Prohibited Substance testing and Treatment Program progress, shall be disclosed to the Club's General Manager, Farm Director, and EAP, all of whom shall keep the information confidential subject to the provisions of Section 10 below.
3. A Player on the Administrative Track is subject to discipline under Section 11.

9. PLAYER EVALUATION FOR THE USE OF DRUGS OF ABUSE

A. Initial Evaluation

A Player who is referred to MLHPAC (either through a positive test result or through Voluntary Self-Referral) as a result of his involvement with a Drug of Abuse will receive an evaluation from the Medical Representative or an EAP ("Initial Evaluation"). The purpose of the Initial Evaluation is to determine the type of Treatment Program that, in the opinion of the Medical Representative and the EAP, would be most effective for the Player involved.

B. Treatment Program

After concluding the Initial Evaluation and consulting with MLHPAC, the Medical Representative and/or the EAP will prescribe a Treatment Program for the Player. In devising the Treatment Program, the Medical Representative and the EAP may consult with independent experts but, in doing so, may not divulge the Player's name. The Treatment Program may include any or all of the following: counseling, in-patient treatment, out-patient treatment and follow-up testing. The Medical Representative or the EAP must inform the Player of the content and initial duration of the Treatment Program. During the course of the Player's Treatment Program, the Medical Representative and the EAP may change the duration (either longer or shorter) and content of the Treatment Program, depending on the Player's progress. The EAP shall forward monthly Treatment Program Progress Reports (attached hereto as Addendum B) to MLHPAC for any Player on either the Clinical or Administrative Track.

10. DISCLOSURE OF PLAYER INFORMATION

A. Disclosure of Information

1. A Club whose Player is on the Clinical Track is prohibited from disclosing any information regarding the Player's participation in the Program to the public, the media or other Clubs. A Player who is on the Clinical Track, however, is required to sign the release that is attached hereto as Addendum C, which permits the Club physician and/or EAP to disclose the Player's Program-related records to MLHPAC. A Player who is on the Clinical Track may also permit the Club physician, EAP or MLHPAC to disclose such Player's Program-related information to the Player's current Club, to a Club that is interested in acquiring the Player, or a Club that is interested in signing the Player as a free agent. Prior to such disclosure, the Player must sign the release attached hereto as Addendum D.
2. A Club whose Player is on the Administrative Track must disclose information regarding the Player's participation in the Program to a Club that is interested in acquiring such Player. All Players will be required in spring training to sign an Authorization for the Use and/or Disclosure of Non 40-Man Roster Player Health Information ("HIPAA Release"), attached hereto as Addendum E. Players participating in the Dominican and Venezuelan Summer Leagues, or in Short-Season/Rookie Leagues, will be required to sign the HIPAA Release prior to the start

of their respective seasons. This HIPAA Release will permit the Club and/or MLHPAC to disclose an Administrative Track Player's Program-related records to a Club that is interested in acquiring the Player or signing the Player as a free agent.

3. A Club that is interested in signing or has already signed a Minor League free agent should contact Robert D. Manfred, Jr. or Jonathan D. Coyle at the Office of the Commissioner to obtain information regarding that Player's participation in the Program.
4. The Office of the Commissioner may issue a press release announcing a Player's violation of the Program which discloses the category of Prohibited Substance (*e.g.*, Drug of Abuse or Performance Enhancing Substance) that resulted in the violation. For Performance Enhancing Substances, the Office of the Commissioner may disclose the specific substance for which the Player tested positive or was determined to have used, possessed or distributed. In addition, all suspensions will be entered into eBis as a violation of the Program.
5. The only public comment from a Player's Club shall be: (i) general comments about the Program; and (ii) that the Player has been suspended by the Commissioner for a specific number of days as a result of a violation of the Program.
6. Notwithstanding anything to the contrary above, either the Office of the Commissioner or the Player's Club may disclose publicly details of the Player's positive test results or violation of the Program to respond to any inaccurate or misleading claims by that Player that could undermine the integrity and/or credibility of the Program.

B. Player Authorization

Unless a Player is on the Clinical Track, any information regarding a Player's test results under the Program or his Treatment Program progress shall be deemed "Health Information" subject to disclosure (as prescribed under the Program) pursuant to Paragraph 1 of the HIPAA Release that is attached hereto as Addendum E.

11. DISCIPLINE

A. Player Fails to Comply with an Initial Evaluation or Treatment Program

If MLHPAC determines that a Player has failed to comply with his Initial Evaluation or Treatment Program, and if the Player is either already on the Administrative Track or, as a result of such failure to comply, is placed on the Administrative Track, that Player shall be subject to the following discipline:

1. First failure to comply with an Initial Evaluation or Treatment Program: a 50-game suspension;

2. Second failure to comply with an Initial Evaluation or Treatment Program: a 100-game suspension;
3. Third failure to comply with an Initial Evaluation or Treatment Program: permanent suspension from Major and Minor League Baseball. A Player on a Treatment Program may be eligible for reinstatement if he successfully completes the Treatment Program and is in compliance with the requirements of the Program. The decision whether to reinstate a Player shall be in the sole discretion of the Commissioner.

B. Player Tests Positive for a Drug of Abuse

For purposes of the penalties in this Section 11.B and 11.C below, a positive test result under the former Dominican Summer League Drug Prevention and Treatment Program reported prior to March 1, 2008 will not be considered in determining the number of times that a Player has tested positive under the Program.

1. First positive test result: placement on the Administrative Track and follow-up testing pursuant to Section 7 above;
2. Second positive test result: a 50-game suspension;
3. Third positive test result: a 100-game suspension; and
4. Fourth positive test result: permanent suspension from Major and Minor League Baseball. A Player who agrees to be placed on a Treatment Program may be eligible for reinstatement if the Player successfully completes the Treatment Program and is in compliance with the requirements of the Program. The decision whether to reinstate a Player shall be in the sole discretion of the Commissioner.

C. Player Tests Positive for a Performance Enhancing Substance

1. First positive test result: a 50-game suspension;
2. Second positive test result: a 100-game suspension; and
3. Third positive test result: permanent suspension from Major and Minor League Baseball.

D. Conviction for the Possession or Use of a Prohibited Substance

A Player who is convicted or pleads guilty (including a plea of nolo contendere or similar plea) to the possession or use of a Prohibited Substance (including a criminal charge of attempt to possess or use) shall be subject to the following discipline:

1. First offense: a minimum 50-game suspension;

2. Second offense: a minimum 100-game suspension; and
3. Third offense: permanent suspension from Major and Minor League Baseball.

E. Participation in the Distribution or Sale of a Prohibited Substance

A Player who participates in the sale or distribution of a Prohibited Substance shall be subject to the following discipline:

1. First offense: a one-year suspension and a \$10,000 fine; and
2. Second offense: permanent suspension from Major and Minor League Baseball.

F. Use or Possession of a Syringe

A Player who uses or possesses a syringe in violation of Section 3 of the Program shall be subject to the following discipline:

1. First offense: a 25-game suspension
2. Second offense: an 80-game suspension; and
3. Third offense: permanent suspension from Major and Minor League Baseball.

G. Commissioner Discretion

The Commissioner has the discretion to discipline a Player for any violation of the Program not referenced in Sections 11.A through 11.F above.

H. Suspensions

1. All suspensions under the Program shall be without pay. Any discipline imposed for a violation of the Program shall be effective on the third business day after the discipline is issued. If a Player appeals the discipline before the effective date pursuant to Section 12 below, the Player's discipline shall be held in abeyance until the appeal is decided.

2. For purposes of this Section 11, a "game" shall include all championship season games for which the Player would have been eligible to play, but shall not include Spring Training games. A Player suspended for a violation of the Program shall be prohibited from participating in post-season games in which the Player would have been eligible to play, but these games will not count against a suspension.

3. A Player suspended for a violation of the Program shall be allowed to work out with his Club and participate in Spring Training, but shall not be allowed to participate in Extended Spring Training games, the Arizona Fall League, or any affiliated Winter Leagues.

I. Restricted List

A Player shall be placed on the Restricted List during the term of any suspension imposed under this Section 11. A Player suspended for a violation of the Program must serve the full suspension with the same Minor League Club at which the suspension began. A Player suspended for a violation of the Program shall be reinstated from the Restricted List during the off-season, but the Player must be reassigned at the start of the next championship season to the Minor League Club at which the Player began his suspension and placed again on the Restricted List. A Player suspended for a violation of the Program shall be reinstated from the Restricted List by the Commissioner's Office immediately at the conclusion of the specified period of ineligibility.

J. Major League Discipline

A Player suspended for a violation of the Program who is added to a 40-man roster before such suspension is complete shall be suspended at the Major League level for the lesser of: (i) the remainder of the suspension imposed under the Program; or (ii) the difference between the maximum penalty that could have been imposed under Major League Baseball's Joint Drug Prevention and Treatment Program ("Major League Program"), had each of the Player's violations occurred while he was on a 40-man roster, and the number of games already served by the Player at the Minor League level. If the Player does not serve the entire suspension imposed under the Program while he is on a 40-man roster, the Player will be required to serve the remainder of the original suspension if and when the Player is removed from a 40-man roster.

A Player who violates the Program and is not notified of the violation until after his promotion to a 40-man roster shall be treated as if the Player violated the Major League Program. Except as provided in this Section 11.J, a violation of the Program shall not be considered a violation of the Major League Program for any purpose.

K. Multiple Substances

If a single specimen is positive (within the meaning of Section 5.D.1) for both a Performance Enhancing Substance and a Drug of Abuse, the Player shall serve the longer suspension only. In the event of any subsequent positive test result for either a Performance Enhancing Substance or a Drug of Abuse under the Program, however, the Player shall be treated as if he had been disciplined for both positive test results separately.

L. Multiple Disciplines for the Same Use

Players shall not be subjected to multiple discipline under the Program as a result of the same use of a Prohibited Substance. Whenever a positive test result under the Program could be the result of the same use of a Prohibited Substance that produced a prior positive test result under the Program, MLHPAC shall refer the matter to the laboratory for a determination as to whether, in the laboratory's opinion, the subsequent positive test result was from the same use. MLHPAC will not treat the result as a distinct violation of the Program only if the laboratory

concludes to a scientific certainty that the subsequent test result was from the same use of a Prohibited Substance as the prior positive test result.

12. APPEALS

A. Basis for Appeal of Discipline Imposed under Sections 11.A through 11.F

A Player will only be permitted to appeal discipline imposed under Sections 11.A, 11.B, 11.C, 11.D, 11.E, and 11.F in the following limited circumstances:

1. Chain-of-Custody. The Player has sufficient reason to believe that the chain-of-custody of his specimen was not properly maintained pursuant to the requirements set forth in Addendum A and that error resulted in an erroneous positive test result.
2. Laboratory Error. The Player has sufficient reason to believe that the laboratory did not properly administer the testing of the specimen and that error resulted in an erroneous positive test result.
3. Exceptional Circumstances. MLHPAC, in its sole discretion, may permit a Player to appeal if the Player raises exceptional circumstances on the positive test result.

As set forth in Section 13 below, a claimed entitlement to a Therapeutic Use Exemption is not a proper basis for appeal of a positive test result.

B. Process for Appeal of Discipline Imposed under Sections 11.A through 11.F

All appeals of discipline imposed on a Player pursuant to Sections 11.A through 11.F of the Program shall be subject to the following procedures:

1. In order for a Player's appeal to be considered, the Player must submit a written request stating the basis for his appeal by 5pm of the 3rd business day after being informed of the discipline. The written request must be sent to the attention of Jonathan D. Coyles by overnight mail, fax, or email. Mr. Coyles' contact information is as follows:

Jonathan D. Coyles
Office of the Commissioner of Baseball
245 Park Avenue
New York, New York 10167
Phone: (212) 931-7859
Fax: (212) 949-5690
E-Mail: jon.coyles@mlb.com

2. Any request for an appeal that is based on grounds other than those set forth in Section 12.A, or is untimely pursuant to Section 12.B.1, will be automatically rejected.

3. If a Player is appealing to MLHPAC pursuant to Section 12.A.2 above and requests that his "B" specimen be tested to support an assertion that the laboratory test result for his "A" specimen was erroneous, the Player will be required to pay for the test before the test is conducted. A check in the amount of \$150 (made payable to Major League Baseball) must be received by the Office of the Commissioner within seven days of the date that the appeal was filed. In the event that the Player's appeal is granted by MLHPAC, the Office of the Commissioner will reimburse the Player for the cost of the test of the "B" specimen.
4. If requested by the Player, and in the discretion of MLHPAC, the Player will be afforded a telephone hearing to allow the Player an opportunity to present any evidence or witnesses that he believes are relevant to the appeal.
5. The telephone hearing conducted by a member of MLHPAC will be informal and non-adversarial. All evidence must be presented by the Player to MLHPAC within 48 hours of the conclusion of the telephone hearing. MLHPAC will make a determination as to whether the discipline should be sustained, modified, or rescinded. A Player's discipline will be held in abeyance until MLHPAC decides his appeal.
6. All decisions regarding appeals of discipline imposed pursuant to Section 11.A through 11.F of the Program shall be in the sole discretion MLHPAC. MLHPAC shall render a written decision to the Club and the Player as soon as practicable, and may sustain, modify or rescind the discipline originally imposed. The decision by MLHPAC shall constitute full, final and complete disposition of the appeal, and shall not be appealable in any forum.
7. If MLHPAC sustains or modifies a suspension, the Club and the Player shall be notified and the Player shall begin serving his suspension immediately. Prior to a decision by MLHPAC, the Office of the Commissioner and the Player's Club will not disclose any information regarding the Player's violation or discipline to the public, the media or other Clubs. If MLHPAC determines that no discipline is appropriate, all aspects of the hearing shall remain confidential.

C. Appeals of Discipline Imposed by the Commissioner under Section 11.G

All appeals of discipline imposed on a Player pursuant to Section 11.G of the Program shall be subject to the following procedures:

1. In order for a Player's appeal to be considered, the Player must submit a written request stating the basis for his appeal by 5pm of the 3rd business day after being informed of the discipline. The request should state whether the Player is requesting a telephone hearing pursuant to Section 12.C.3 below. The request should be sent to Jonathan D. Coyles, whose contact information is listed in Section 12.B. above.
2. After receipt of the Player's written appeal request, the Office of the Commissioner will provide the Player or his representative with an oral summary of the evidence

upon which the discipline is based. The Office of the Commissioner may, in its discretion, withhold the names of witnesses who were promised confidentiality. Thereafter, the Commissioner will designate a Hearing Officer to conduct a telephone hearing which shall be held within seven days of receipt of the appeal.

3. The telephone hearing conducted by the Hearing Officer will be informal and non-adversarial. The purpose of the telephone hearing is to allow the Player an opportunity to present any evidence or witnesses that he believes are relevant to the allegations. All evidence must be presented by the Player to the Hearing Officer within 48 hours of the conclusion of the telephone hearing. The Hearing Officer will make a recommendation to the Commissioner regarding whether the discipline should be sustained, modified, or rescinded. A Player's discipline will be held in abeyance until the Commissioner decides his appeal.
4. All decisions regarding appeals of discipline imposed pursuant to Section 11.G of the Program shall be in the sole discretion of the Commissioner. The Commissioner shall render a written decision as soon as practicable following the conclusion of such hearing, and may sustain, modify or rescind the discipline originally imposed. The decision by the Commissioner shall constitute full, final and complete disposition of the appeal, and shall not be appealable in any forum.
5. If the Commissioner sustains or modifies a suspension, the Club and the Player shall be notified and the Player shall begin serving his suspension immediately. Prior to a decision by the Commissioner, the Office of the Commissioner and the Player's Club will not disclose any information regarding the Player's violation or discipline to the public, the media or other Clubs. If the Commissioner determines that no discipline is appropriate, all aspects of the hearing shall remain confidential.

D. Confidentiality of Appeal Proceedings

All information associated with or generated by the above appeal procedures is subject to the confidentiality protections of Section 10 of the Program. If MLHPAC or the Commissioner determines that no discipline is appropriate, all aspects of the hearing shall remain confidential. Unless expressly authorized by the Program, neither the Office of the Commissioner nor a Player's Club shall disclose any information obtained in connection with these procedures.

13. THERAPEUTIC USE EXEMPTION ("TUE")

A. Basis for a TUE

A Player authorized to ingest a Prohibited Substance through a valid, medically appropriate prescription provided by a duly licensed physician may apply to receive a TUE for the Prohibited Substance before being tested under the Program. To be "medically appropriate," the Player must have a documented medical need under the standards of care accepted in the United States or Canada for the prescription in the prescribed dosage. The use of a Prohibited Substance to increase "low-normal" levels of any endogenous hormone will not be considered

medically appropriate. The Medical Representative will consider, among other factors, whether there is a reasonable therapeutic alternative to the use of a Prohibited Substance and whether the documented medical need is a consequence, wholly or in part, of prior non-therapeutic use of a Prohibited Substance. A specimen which is found to contain a Prohibited Substance will not be deemed a positive test result if such specimen was provided by a Player who was granted a TUE for that specific medication before the collection that resulted in a positive test result. A Player with a TUE for a Prohibited Substance also does not violate the Program by possessing or using the specific medication for which the TUE was granted. Because all TUEs must be granted prior to the collection that results in a positive test, a Player is not permitted to claim entitlement to a TUE as a basis for appealing a positive test result pursuant to Section 12 above.

B. TUE Application Process

1. April 15th Deadline

A Player who applies for a TUE for a Prohibited Substance must submit all required TUE documentation (as described in Section 13.D.1 below) to the Medical Representative by April 15th. In order to apply for a TUE for a prohibited ADD/ADHD medication, a Player must be evaluated and diagnosed with ADD/ADHD by an MLB-certified consultant clinician ("MLB-Certified Clinician") through the use of the Conners' Adult ADHD Diagnostic Interview for DSM-IV ("CAADID") and must submit all required TUE documentation for the prohibited ADD/ADHD medication (as described in Section 13.D.2 below) to the Medical Representative by April 15th of each year.

TUE applications will not be considered after April 15th unless one of the exceptions set forth in Section 13.B.2 below is applicable. If a Player fails to complete the TUE application process prior to the annual April 15th deadline, he will not be permitted to appeal a positive test result by asserting a right to a TUE even if he would have qualified for a TUE had he made a timely application.

2. Exceptions to April 15th Deadline

The Medical Representative will consider a TUE application submitted after the April 15th deadline in the following two circumstances: (i) a Player signs his first Minor League contract of the season after the preceding April 15th deadline (*e.g.*, Player is selected in the First-Year Player Draft); or (ii) a Player receives a first-time diagnosis by a qualified medical professional after the preceding April 15th deadline that requires a medically necessary prescription for a Prohibited Substance (as determined by the Medical Representative). In both of these circumstances, the Player should contact the Medical Representative and receive approval prior to starting the TUE application process. As stated above, a Player is not permitted to claim entitlement to a TUE as a basis for appealing a positive test result unless a TUE has been granted before the collection which resulted in a positive test.

3. Temporary TUE for ADD/ADHD Medication

If a Player signs his first Minor League contract of the season after the April 15th deadline, and has a documented medical history of ADD/ADHD for which he is being treated with a prohibited ADD/ADHD medication, he may apply for a temporary TUE for that specific medication that will remain in effect during the period in which he arranges for an evaluation with an MLB-Certified Clinician and his TUE application is reviewed by the Medical Representative. Notwithstanding the previous sentence, the maximum effective period of a temporary TUE is 30 days from the date the temporary TUE is granted by the Medical Representative, unless an extension is granted by the Medical Representative for good cause. In order to receive a temporary TUE, the Medical Representative must be provided with all requested information regarding the Player's prescription and diagnosis before the Player begins the regular TUE application process. In order to be granted a temporary TUE, the Player must establish, to the satisfaction of the Medical Representative, both that he has a documented medical history of ADD/ADHD, and that he was being treated with a Prohibited Substance for the condition prior to the time that he signed his first contract. A Player who applies for a TUE after April 15th and uses a Prohibited Substance before a temporary TUE or regular TUE is granted will not be permitted to claim entitlement to a TUE as a basis for appealing a positive test result pursuant to Section 12 above.

C. Duration and Renewal of a TUE

Unless the Medical Representative determines otherwise, the maximum effective period of a TUE runs from April 15th to the following April 14th. A TUE is not automatically renewed. A Player must apply for a renewal of the TUE if he is still taking the prescribed medication prior to April 15th of each year. For a TUE granted for a Prohibited Substance other than an ADD/ADHD medication, a Player must submit the necessary documentation to the Medical Representative to establish that there is a continuing basis for the TUE prior to April 15th. For a TUE granted for a prohibited ADD/ADHD medication, a Player must be reevaluated by an MLB-Certified Clinician, and must submit to the Medical Representative the necessary documentation to establish that there is a continuing basis for the TUE prior to April 15th. At least once during the one-year period, a Player granted a TUE for an ADD/ADHD medication will also be required to meet with an MLB-Certified Clinician for a follow-up evaluation.

D. Required Documentation for a TUE

1. Medication Other Than ADD/ADHD Medication

For a new TUE request for a medication other than an ADD/ADHD medication, the Player is responsible for ensuring that the following information is submitted prior to a TUE application being reviewed:

1. A note completed and signed by the Player's diagnosing physician that includes the evaluations performed and the diagnosis for which the Prohibited Substance is being prescribed to treat;

2. An affirmation from the Club physician acknowledging that he/she is aware of the Player's prescription and the dosage;
3. An affirmation from the prescribing physician that lists the Prohibited Substance that he/she is prescribing to the Player and the dosage.

For a renewal TUE request for a medication other than an ADD/ADHD medication, the Player is responsible for ensuring that the following information is submitted prior to a TUE renewal application being reviewed:

1. A note completed and signed by the Player's physician that includes the results of any follow up evaluations performed over the previous one-year period that indicate a continuing need for the Prohibited Substance;
2. An affirmation from the Club physician acknowledging that he/she is aware of the Player's continued prescription and the dosage;
3. An affirmation from the prescribing physician that lists the Prohibited Substance that he/she continues to prescribe to the Player and the dosage.

The Medical Representative may request additional documents from the Player or his physician after a new or renewal TUE request is received.

2. ADD/ADHD Medication

For a TUE for an ADD/ADHD medication, the Player is responsible for arranging an evaluation with the MLB-Certified Clinician and ensuring that the 4-page TUE application form is submitted to the Medical Representative in a timely manner.

For a new TUE request for an ADD/ADHD medication, the TUE application must contain the following information in order for the TUE application to be reviewed:

1. A TUE application form completed and signed by an MLB-Certified Clinician that includes the diagnosis and the Prohibited Substance that is being prescribed;
2. An affirmation from the Club physician acknowledging that he/she is aware of the Player's prescription and the dosage; and
3. An affirmation from the prescribing physician that lists the Prohibited Substance that he/she is prescribing to the Player and the dosage.

For a renewal TUE request for an ADD/ADHD medication, the TUE application must contain the following information in order for the TUE application to be reviewed:

1. A TUE application form completed and signed by an MLB-Certified Clinician and the results of any follow-up evaluations performed over the previous one-year period that indicate a continuing need for the Prohibited Substance;

2. An affirmation from the Club physician acknowledging that he/she is aware of the Player's continued prescription and the dosage;
3. An affirmation from the prescribing physician that lists the Prohibited Substance that he/she has continued to prescribe to the Player and the dosage.

The Medical Representative may request additional documents from the Player or the MLB-Certified Clinician after a new or renewal TUE request is received, including, but not limited to, the complete CAADID form.

E. Where to Submit TUE Documents

All TUE documentation is confidential and should be sent to the Medical Representative by e-mail to Non40manTUE@mlb.com.

If necessary, the Medical Representative's mailing address and fax number are:

Laurence M. Westreich, M.D.
c/o Park West Associates
33 Plymouth St., Suite #104
Montclair, NJ 07042
Fax: 973-509-1446

F. Change in Medication

Because a TUE is granted for a specific medication, a Player must apply for a new TUE if his prescribing physician changes his medication. A Player does not need to submit a new TUE application for a change in medication, but he is responsible for notifying the Medical Representative of the change in medication before taking the new medication. A Player may be subject to discipline if he fails to inform the Medical Representative of a change in medication before being tested under the Program.

14. COSTS OF THE PROGRAM

Any costs for the treatment and testing of Players on either the Clinical or Administrative Track shall be the responsibility of the Club by whom the Player is under contract. The costs of all other testing conducted pursuant to the Program shall be borne by the Office of the Commissioner.